

U.S. Patent Application Serial No. 10/523,034
Response filed November 15, 2007
Reply to OA dated July 16, 2007

REMARKS

Claims 1-4, 6-9, 11 and 13 are pending in this application. An amendment amending claims 1-4 and 7-9 is proposed herein. Upon entry of this amendment, claims 1-4, 6-9, 11 and 13 will be pending. Entry of this amendment and reconsideration of the rejections are respectfully requested.

No new matter has been introduced by this Amendment. Support for the amendments to the claims is as follows:

Claim 1 has been amended to limit the silicate mineral to silica, as supported by page 14, line 1, and page 35, Table 1, Examples 9, 10 and 18, in the present specification. In equation (a) in claim 1, the lower limit is amended to "1.2." Support for this amendment may be found in Example 5 in Table 1 of the specification.

Claim 2 has been amended to be dependent from claim 1, with equation (d) amended for consistency with claim 1. Claim 3 has been amended to be dependent from claim 1, with equation (g) amended for consistency with claim 1. Claim 4 has been amended accordingly to delete a redundant phrase.

Support for the limitation on the additive, added to claims 7, 8 and 9, may be found in claim 1. Support for the lower limit of "1.2" in equation (a) in claims 7, 8 and 9 may be found in Example 5 in Table 1 of the specification.

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Claims 2-4, 7, 8, 11, 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (Office action paragraph no. 1)

In paragraph no. 7 of the Office action, the Examiner notes that the previous amendment overcame the portion of the rejection regarding the particular inorganic compound and additive used. The Examiner now states: "However, it is maintained for the claims 2-4, 7, 8, 11, 13, since these do not recite what the various components are."

This portion of the rejection is overcome by the proposed amendments to the claims.

Claims 2 and 3 have been amended to depend from claim 1, so that all of claims 2-4 have the limitation on the additive recited in claim 1. In addition, claims 7-9 have been amended to incorporate the limitation on the additive from claim 1.

In paragraph no. 8 of the Office action, the Examiner states that claim 4 still does not recite where the pores are and whether they are interparticle or intraparticle pores.

This portion of the rejection is respectfully traversed. Since the value D_{xs} is simply the value measured by a mercury penetration method, it is a characteristic property of the overall composition, **and it does not matter where the pores are.** As long as the value D_{xs} is defined so that it can be reproducibly measured, this recitation is not indefinite.

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Claims 1-4, 6-9, 11, 13 are rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over EP 870,435. (Office action paragraphs no. 4-5)

The rejection is overcome by the proposed amendments to the claims. In particular, the lower limit of the average particle diameter P has been amended to be 1.2 in the claims.

Applicant submits that the lower limit of 1.2 μm distinguishes the present claims from the range of "0.4 μm or less" in EP 870,435 (page 6 line 17). There is no overlap between the range in the reference and the ranges in the present claims, and Applicant submits that there is no suggestion in the reference for the recited range of average particle diameter P.

Applicant also notes the following points about the recited range of P. The average particle diameter P is explained on page 15, lines 3 to 10, in the present specification. With respect to the lower limit, first, there is a problem that it is technically difficult to synthesize an inorganic compound of poor solubility maintaining a state of dispersion of smaller particle diameter, as mentioned in the specification.

Second, the flower thinning agent of the present invention is used by being spread to fruit trees. In this case, as the particle diameter is smaller, the problem of scattering of the flower thinning agent arises. On the other hand, in a mineral composition of the cited reference which is utilized in such fields as foods and cosmetics, there is no problem such as scattering and dispersion stability is the most important, and thus, as the smaller the particle diameter, the better.

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Third, in use of the flower thinning agent of the present invention, it is suspended by a stick, etc., not by a mechanical means, at customer's home, prior to spreading. In this case, when suspension stability is poor, agglomerates are generated to thus block off a nozzle. As the particle size becomes smaller, the agglomerates tend to be generated. For this reason, too, small particle diameter is not preferable.

As is apparent from the above remarks, in the present invention, there is an appropriate lower limit from a viewpoint of scattering. By contrast, in the cited reference EP 870,435, there is no lower limit from a viewpoint of dispersion stability. Applicant submits that there is no teaching or suggestion in the cited reference for the lower limit of 1.2 for the average particle diameter, as recited in the amended claims.

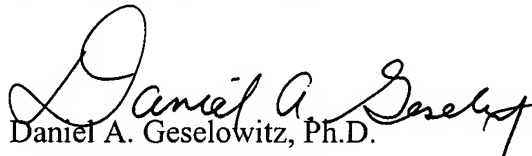
If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the Applicant's undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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Enclosure: Petition for Extension of Time

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